

# 9-85.000 PROTECTION OF GOVERNMENT INTEGRITY

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## 9-85.100

### Supervisory Jurisdiction

This chapter addresses crimes which affect government integrity, including bribery of public officials and accepting a gratuity, election crimes, and other related offenses. The Public Integrity Section of the Criminal Division has supervisory jurisdiction over these offenses.

## 9-85.101 Bribery of Public Officials

Section 201 of Title 18 is entitled "Bribery of public officials and witnesses." The statute comprises two distinct offenses, however, in common parlance only the first, codified in section 201(b) of the statute, is true "bribery." The second offense, codified in section 201(c), concerns what are commonly known as "gratuities," although that word does not appear anywhere in the statute. Due to this distinction, government attorneys should take particular care and should not hesitate to consult with the Public Integrity Section of the Criminal Division.

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### For a discussion of the law see the Criminal Resource Manual

Bribery of Public Officials	Criminal Resource Manual at 2041
Elements Common to Both Bribery and Gratuity Offenses	Criminal Resource Manual at 2042
Comparison of the Elements of the Crimes of Bribery and Gratuities	Criminal Resource Manual at 2043
Particular Elements	Criminal Resource Manual at 2044
United States v. Brewster	Criminal Resource Manual at 2045
Other Issues	Criminal Resource Manual at 2046
Sample Charging Language	Criminal Resource Manual at 2047

## **9-85.200 Federally Protected Activities (18 U.S.C. § 245)**

No prosecution of an offense described in 18 U.S.C. § 245 (Federally Protected Activities) may be undertaken by the United States except upon the certification of the Attorney General or Deputy Attorney General that in his or her judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice. The function of certification may not be delegated. *See* 18 U.S.C. § 245(a)(1). The anti-riot provision, 18 U.S.C. § 245(b)(3), and violations of 18 U.S.C. § 245(b)(1), insofar as it relates to matters not involving discrimination or intimidation on grounds of race, color, religion, or national origin, are assigned to the Criminal Division and requests for certification relating to them should be sent to the Criminal Division.

When the offense involves voting, and race is *not* an issue, prosecutors should contact the Public Integrity Section of the Criminal Division. When the offense involves voting and race *is* an issue, prosecutors should contact the Criminal Section of the Civil Rights Division.

## **9-85.210 Violations of Campaign Financing Laws, Federal Patronage Laws, and Corruption of the Electional Process -- Consultation Requirement**

Consultation with the Public Integrity Section of the Criminal Division is required in all federal criminal matters that focus on violations of federal or state campaign financing laws, federal patronage crimes, and corruption of the electional process. These offenses include, but are not limited to, offenses described in: 18 U.S.C. §§ 241 to 242, 592 to 611; 42 U.S.C. §§ 1973i(c), 1973i(e), and 1973gg-10; 2 U.S.C. §§ 431 to 455; and prosecutive theories that focus on election fraud or campaign fundraising violations using 18 U.S.C. §§ 1341, 1343, and 1346; 18 U.S.C. § 1952; 18 U.S.C. §§ 1956 and 1957.

With regard to federal campaign matters arising under 2 U.S.C. §§ 431-455, United States Attorneys shall consult with the Public Integrity Section before any inquiry is requested or conducted. With regard to all other election-related investigations (other than those described in 9-85.200 (Federally Protected Activities)), United States Attorneys shall consult with the Public Integrity Section before an investigation beyond a preliminary inquiry is requested, and before instituting grand jury proceedings, filing an information, or seeking an indictment.

## **9-85.220 Purchase and Sale of Public Office (18 U.S.C. §§ 210, 211)**

United States Attorneys shall consult with the Public Integrity Section of the Criminal Division before instituting grand jury proceedings, filing an information, or seeking an indictment for violations of 18 U.S.C. §§ 210 and 211 (Purchase and Sale of Public Office).

## **9-85.230 Lobbying with Appropriated Funds (18 U.S.C. § 1913)**

United States Attorneys shall consult with the Public Integrity Section of the Criminal Division before instituting grand jury proceedings, filing an information, or seeking an indictment for violations of 18 U.S.C. § 1913 (Lobbying with Appropriated Funds).

## **9-85.240 Independent Counsel Provisions -- Ethics In Government Act**

The Public Integrity Section is responsible for reviewing and processing all matters arising under the Independent Counsel provisions of the Ethics in Government Act. *See* 28 U.S.C. § 591 *et seq.* Because of the sensitivity of many of these cases and the extremely strict time limitations built into the legislation, the Section should be notified immediately should an allegation against an individual covered by the Act be received.